DR. ORTON'S USURY BILL.

Dr. Orton's bill to limit the rate of interterest on real estate loans to seven per cent. passed a second reading on a vote of 67 to 60. It is nevertheless not probable that it will become law; it is almost certain to be thrown out, at a subsequent stage; or, if it should finally pass the Commons, to be rejected by the Senate. We have no faith in a law which seeks to limit the legal rate of interest to a figure below the market rate. The effect of such laws is to aggravate the evil they aim to correct. The rate of interest depends upon conditions which no law can touch. The statement was broadly made during the debate, that all rates, from seven to fourteen per cent. are being exacted by loan societies. But it is quite certain that much money now goes at seven per cent., and that the rate of interest is getting lower. In all new countries, where the soils yields readily its produce to the smallest amount of labor, interest is high. Some parts of Canada have passed that stage, and there, if there were no other reason, the rate of interest would fall.

It is a mere delusion to instil into the mind of the farmer the notion that money can be made cheap by act of Parliament. Competition among lenders is making it cheaper, and this is the source whence the farmer may reasonably look for relief. If Dr. Orton's bill became law to-morrow, it would not prevent more than seven per cent. being taken and paid, if the market rate were higher. All experience proves that usury laws are of all others the most easily evaded. But if the farmer cannot get the loan of money made cheap by Act of Parliament, every borrower is entitled to know what he is paying. Speakers on all sides affirmed, during the debate, that where capital and interest are lumped together, in periodical payments, the borrower often does not know what rate of interest he is paying. This is true; and it is an evil from which the borrower is entitled to be freed. It is a common rule of public policy that where the purchaser cannot protect himself, as to quantity, quality, purity, weight, measure, and so on, he has a right to the protection of the Government. For this reason, we have public weigh scales; inspectors of weights and measures; public annalists; and various other functionaries and mechanism, all brought into existence foe the same purpose. When a man wants a loan of money, what interest he shall pay is a matter of bargain; that he is entitled to know what he is paying is only a matter of common fairness, and it is properly a function of Government to secure him this right. The tone of the debate showed that any confusion which may exist on this point will soon be at an end. Mr. Casey, who rejected the seven per cent. clause as not only useless but mischievous, accepted the following provision as a wholesome reform: "All mortgages or other liens on real estate in which principal is paid by instalments, and the whole interest on the original principal is made payable to the end of the term of such mortgage or lien, notwithstanding the payments of any such instalments, shall hereafter be illegal, and any such mortgage shall be null and void." On the same point, Mr. Blake said: "By the mode under which a particular sum was lent principal and interest were mixed in one fixed sum, payable annually, and the borrower was not informed in any way what the real rate of interest on his loan was. He thought that to overcome this evil it would be highly proper to provide that, in any Loan Company's mortgage which was not for what was called a straight loan, there should be a memorandum declaring what was the real rate of interest on the loan." People sometimes dispute as to what the rate of interest, paid in this way, really is; one asserting it to be one thing, and another another. To remove all doubt on the subject, tables ought to be drawn up by some capable public functionary, such as Mr. Cherriman, which should be used by all who lend in this way. In addition to that, the memorandum which Mr. Blake suggests might be added.

It is obvious from the tone of the debate that whatever may be the fate of this bill, the imposition of what are called fines for non-payment of interest when due, will not much longer be permitted. These so-called fines are really a surcharge of interest, over and above the rate agreed upon. What Mr. Blake said on this point also was very reasonable: "If a man secured a loan from another, and failed to pay interest when due, it was fair that he should pay interest on that interest, but it was not in the public interest that the creditor should be able to force him to pay a fine also. Recognizing this difficulty he had, under the late government, introduced the following proviso into the Joint Stock Act of 1879 when it was being passed:—"Provided always that no fine or penalty shall be stipulated for, taken, reserved or exacted in respect of arrears of principal or interest which shall have the effect of increasing the charge in respect of arrears beyond the rate of interest or discount on the loan." If this provision applied to all existing companies, it would be sufficient.

Mention was made, in a tone of complaint, of the fact that a large proportion of farms have come to be mortgaged. But that is not the fault of the loan companies. They do not compel farmers to borrow; the borrowing is a voluntary act, and there are two parties to the bargain. Before the days of loan companies, and when the usury laws were in force, borrowers fared much worse than now, and if we revived the usury laws, they would in future be worse off than they are now.

THE LAW OF ESCHEAT.

Some most important questions about the law of escheat are involved in the litigation which has been pending in the Courts of this Province for some time past, in connection with the Mercer estate. The dispute arises from the refusal of A. Mercer, Jr., the natural son of the deceased, to give up a portion of the property to the Crown. A suit in Chancery having been instituted to obtain possession, the matter came up in due course before His Lordship Vice-Chancellor Proudfoot. Besides a large number of technical objections, it was objected for the defence that the law of escheat did not apply to Canada; and secondly that it did not apply to the effects of a person dying intestate, and without heirs vested in the Dominion, and not in the Province. These and all other objections were overruled by the Vice-Chancellor, who gave a decree in favor of the Crown.

Against this decision the defendant appealed. The case was argued before the Court of Appeal some time ago, when the same objections were urged. Judgment has now been rendered by that Court, unanimously sustaining the finding of the Court of Chancery. It now remains to be seen whether the matter will be carried to the Supreme Court, or allowed to rest. In view of the unanimity displayed by the judges who have thus far had the matter under consideration, it is unlikely that the defendant will have the hardihood to carry the case further.

In the Province of Quebec also, it has been held in the case of Church *v.* Blake, that Escheats belongs to the Province, and not to the Dominion. Mr. Justice Patterson quotes this decision with approval, and holds that even as a matter of prerogative, the reversionary interest in all property vests in the Province. Mr. Justice Burton, in his judgment, relies principally on the provisions of the British North America Act, which assigns property and civil rights to provincial jurisdiction. It would certainly be strange if, after all Crown lands are vested in the Province, it were held that a portion of land, for which the Provincial authorities had issued a patent, reverted to